

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Black	Team: Team # 3	CCRB Case #: 200715064	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/15/2007 8:20 PM	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 4/15/2009	EO SOL 4/15/2009	
Date/Time CV Reported Tue, 10/16/2007 11:19 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/16/2007 11:19 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Konner	10398	938787	047 PCT
2. POM Robert Roda	01234	939332	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Konner	Abuse: PO Robert Konner refused to provide his name and shield number to § 87(2)(b)	
B.POM Robert Roda	Abuse: PO Robert Roda refused to provide his name and shield number to § 87(2)(b)	

Synopsis

On October 16, 2007, § 87(2)(b) filed the following complaint by phone with the Civilian Complaint Review Board (CCRB) regarding an incident that occurred on the previous day.

On October 15, 2007 at approximately 8:20 PM, § 87(2)(b) was approached by PO Robert Konner and PO Robert Roda for holding a beer and playing music from his § 87(2)(b) in the Bronx. PO Konner asked for § 87(2)(b)'s identification and both officers returned to the patrol car. Approximately fifteen minutes later, § 87(2)(b) approached the patrol car and asked the officers why it was taking so long to write him a summons. The police officers then rolled up the windows of the patrol car. § 87(2)(b) then asked both police officers for their names and shield numbers. § 87(2)(b) heard the officers laugh and say something, but he could not understand what they said because the windows were closed. § 87(2)(b) then attempted to look into the windows of the patrol car to read the names and badge numbers off of the police officers' uniforms, but PO Konner and PO Roda allegedly turned their bodies so § 87(2)(b) could not see their badges (Allegation A and B). § 87(2)(b) was later detained and brought to the 47th Precinct stationhouse where he was released with summonses for excessive noise, possession of alcohol and disorderly conduct.

§ 87(2)(b) was offered mediation as a means of resolving his complaint; however, he refused stating that "nothing will come of it."

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) filed a complaint with the CCRB on October 16, 2007 (encl. A 4). On November 30, 2007, § 87(2)(b) provided a statement at the CCRB in connection with this incident (encl. A 5-10). § 87(2)(b) was also contacted by phone to provide further details in regards to his case on February 28, 2008 (encl. D 4). All statements are summarized below.

On October 15, 2007 at approximately 8:20 PM, § 87(2)(b) was working in a § 87(2)(b) at § 87(2)(b) in the Bronx. Before servicing his final client, § 87(2)(b) walked outside of the § 87(2)(b) to a nearby store and purchased a bottle of Coors Light. § 87(2)(b) returned to his § 87(2)(b) and stood outside to smoke a cigarette before servicing his last client. During a telephone conversation with § 87(2)(b) he stated that he did not consume any alcohol prior to his interaction with the police. He also admitted to having the music playing, but contended in the past he had played the radio as loud as it would go and other police officers "did not mind."

Two police officers in a marked patrol car stopped in front of § 87(2)(b). The officers exited the vehicle and looked at the container of beer in § 87(2)(b)'s hands. § 87(2)(b) had a closed bottle of Coors Light in a brown paper bag. PO Konner, who was identified by the summons that § 87(2)(b) received, then asked § 87(2)(b) approximately three times for his identification before he provided it.

The officers returned to their patrol car with § 87(2)(b)'s identification, while § 87(2)(b) proceeded to cut his clients' hair. After approximately fifteen minutes, § 87(2)(b) approached the passenger side of the patrol car and asked if there was a reason that they were taking so long with his identification. PO Roda, who was identified by this investigation, rolled the window of the patrol car up and

did not respond to § 87(2)(b) stated that he observed PO Konner writing the summons.

§ 87(2)(b) went inside of his § 87(2)(b) and came out with a paper and a pen and tapped on the passenger window of the patrol car approximately three times and asked both police officers for their names and shield numbers. § 87(2)(b) tried to look at the officers' badges through the window, but when the officers saw this they turned their bodies to block § 87(2)(b)'s view. § 87(2)(b) indicated that the officers were ignoring his request for their information; however, he heard the officers laughing and joking in the patrol car. § 87(2)(b) could not specifically hear what the officers were saying because the patrol car windows were up. He explained that all he could really hear was the muffled sound of their voices. Even though the window was closed when § 87(2)(b) asked for the officer's names and shield numbers, but he maintained that the police officers heard his request.

§ 87(2)(b) then asked the police officers to speak with the "Precinct Commander." The officers ignored § 87(2)(b) so he said that he would file a complaint against them and then walked back into the § 87(2)(b).

The police officers exited their patrol car and followed § 87(2)(b) into the § 87(2)(b) and PO Konner placed § 87(2)(b) in handcuffs. § 87(2)(b) admitted to resisting the police officers by making it difficult for the officers to place him in handcuffs because he felt that what they were doing was wrong. § 87(2)(b) was taken to the 47th Precinct stationhouse and was released with four summonses. The summonses were for disorderly conduct, possession of alcohol, and excessive noise.

§ 87(2)(b) indicated that he was "fed up" with the 47th Precinct because other officers intimidate people in the neighborhood and they cause many "drama issues." When § 87(2)(b) was asked to explain this he stated, "That is just another issue with the 47. The 47 is crazy."

Results of Investigation

Identification of Officers Interviewed

PO Konner was identified by the summonses that § 87(2)(b) received. The 47th Precinct Tour 3 Roll Call on October 15, 2007 indicates that PO Roda was working with PO Konner. PO Konner's and PO Roda's memobooks confirm their involvement in the incident.

Subject Officers Statements

PO Robert Konner

PO Robert Konner, § 87(2)(b) was interviewed at the CCRB on February 25, 2008 (encl. B 4-6).

On October 15, 2007, PO Konner worked from 4:00 PM until 11:35 PM. PO Konner was working with PO Roda and both were in uniform and assigned to a marked RMP. PO Konner was the vehicle's operator. PO Konner was assigned to a special post for high crime at § 87(2)(b) and Dereimer Avenue. PO Konner's memo book states that at 8:05 PM one male was stopped in front of a § 87(2)(b) on § 87(2)(b). At 8:27 PM one man was arrested at the location (encl. B 1).

On October 15, 2007 at approximately 8:00 PM, PO Konner heard loud music playing from a § 87(2)(b) at § 87(2)(b) in the Bronx. PO Konner noted that there was a dog chained to the front entrance and a bicycle obstructing the sidewalk in front of the shop. PO Konner noticed § 87(2)(b) who was identified by the investigation, walking back and forth in front of the § 87(2)(b) with an open container of alcohol. The alcohol was not in a bag and was described as a sixteen ounce bottle of liquor. PO Konner

could not remember what type of liquor it was. PO Konner explained that § 87(2)(b) was very loud and was making comments to women as they walked by.

PO Konner and PO Roda approached § 87(2)(b) asked him to lower the music, and bring the alcohol into the building. § 87(2)(b) stated “Don’t tell me what to do you faggot.” § 87(2)(b) did not appear to be intoxicated, but he did appear to have consumed some alcohol because PO Konner observed empty alcohol containers in the shop. PO Konner asked § 87(2)(b) a second time to turn down the music and bring the alcohol in door.

PO Konner and PO Roda asked for his identification, but he was not compliant. PO Konner explained to § 87(2)(b) that if he did not provide his identification they would have to arrest him because they “would have no way of knowing who he is.” § 87(2)(b) then “became loud and began to cause a scene.” As PO Konner was standing outside of the § 87(2)(b) he noticed about three young children in the shop. PO Konner noted that he did see empty alcohol containers in the shop, but he did not observe any of the children drinking.

PO Konner confirmed that they took § 87(2)(b)’s identification back to the patrol car and were checking for warrants. PO Konner did not recall if § 87(2)(b) knocked on the window of the patrol car, but indicated that it was possible.

PO Konner’s original intent was to give § 87(2)(b) a summons for disorderly conduct, but § 87(2)(b) became incontinent as he was writing the summons by screaming and yelling in the street. PO Konner then decided that it would be best to take § 87(2)(b) back to the precinct stationhouse. PO Konner also indicated that it was dangerous for § 87(2)(b) to be cutting people’s hair as he was drinking alcohol. Even though § 87(2)(b) did not appear intoxicated, he had been drinking and was attempting to cut hair, which was a dangerous condition. The children inside the location did not appear to be drinking alcohol, but PO Konner determined that it was not safe for them to be getting their hair cut by someone who had been drinking.

§ 87(2)(b) was placed under arrest in the doorway of the § 87(2)(b) § 87(2)(b) was taken to the 47th Precinct stationhouse and was issued summonses for playing loud music, an unlicensed commercial establishment, alcohol in public, and disorderly conduct.

PO Konner admitted that § 87(2)(b) asked several times for his name and shield number throughout the incident. He provided the information to § 87(2)(b) at the location, in front of the desk sergeant at the stationhouse, and when he gave § 87(2)(b) his summonses. PO Konner noted that § 87(2)(b) stated that he was going to file a complaint, so as he gave him the summonses he pointed out that his name and tax number were written on the summonses. PO Konner denied ever attempting to turn his body so § 87(2)(b) would not be able to read his badge.

§ 87(2)(b)’s threat to file a complaint did not impact PO Konner’s decision to issue § 87(2)(b) the summonses. The disorderly conduct summons was issued because § 87(2)(b) was yelling and screaming and arguing with people that were passing by the § 87(2)(b). After the officers asked § 87(2)(b) to stop, he refused to obey the lawful order. There was not a crowd at the location, but he was screaming on the street. § 87(2)(b) was incontinent by refusing to put his hands behind his back, yelling and screaming, and making it difficult for the police officers to place him into the patrol car.

PO Robert Roda

PO Robert Roda § 87(2)(b) was interviewed at the CCRB on February 25, 2008 (encl. 10-12).

On October 15, 2008, PO Roda worked from 3:00 PM until 11:35. PO Roda was in uniform and was working with PO Robert Konner. Both police officers were assigned to a special post at § 87(2)(b) and § 87(2)(b) due to an increase in crime, and were assigned a marked RMP. PO Roda was the recorder of the vehicle. PO Roda's memo book indicates that the owner of § 87(2)(b) was stopped for unreasonable noise at 8:07 PM and placed under arrest at 8:27 PM (encl B 7-9).

On October 15, 2008 at approximately 8:00 PM, PO Roda heard loud music being played from a § 87(2)(b) at § 87(2)(b) in the Bronx. § 87(2)(b) who was identified by the investigation, was observed walking back and forth several times from inside the § 87(2)(b) through the front door, to the pit bull chained outside and then back inside the § 87(2)(b).

§ 87(2)(b) was approached in the entrance of the § 87(2)(b) and was asked to lower the music and exit the § 87(2)(b) but he refused. PO Roda confirmed that at some point in the incident, he and his partner were inside of the patrol car and § 87(2)(b) began to knock on the window of the vehicle. § 87(2)(b) was stating, "Fuck you faggots. You can't do shit. Fuck you." § 87(2)(b) also asked for their names and shield numbers. PO Roda told § 87(2)(b) his name and shield number and iterated that it was not difficult for him to forget because it is 1234. PO Roda denied covering his badge so § 87(2)(b) could not read the name and number off of his uniform.

The officers' reason for approaching § 87(2)(b) was to get him to turn down the music and issue him a summons for excessive noise, but the situation escalated. § 87(2)(b) also had a pit bull chained in front of the location, was drunk in a place of business, refused to cooperate with the officers, and was cutting a child's hair while intoxicated. § 87(2)(b) was questioned about drinking alcohol and he admitted to "having a few." As a result, § 87(2)(b) was placed under arrest for disorderly conduct. PO Roda and PO Konner placed § 87(2)(b) in handcuffs and he resisted by moving his arms and legs. Several customers walked into the § 87(2)(b) but left when they observed the situation. There were approximately four people on the sidewalk that were telling § 87(2)(b) to relax. PO Roda indicated the § 87(2)(b) was causing a public disturbance because it is a busy neighborhood at 8:00 PM and stated that, "If he would have just lowered the music, everything would have been fine."

NYPD Police Documents

SPRINT: The SPRINT indicates that there was an arrest made at § 87(2)(b) and Dereimer Avenue at 9:31 PM on October 15, 2007 (encl. C 1).

Roll Call: The 47th Precinct Tour 3 Roll Call confirms that PO Konner and PO Roda were working together on October 15, 2007 (encl. C 2-9).

Command Log: The command log indicates that § 87(2)(b) was arrested for disorderly conduct by PO Konner at 8:39 PM on October 15, 2007; however, in the margin there is a note that states that a summons was issued (encl. C 10).

Disposition of Summonses: A search of the Officer of Court Administration (OCA) database reveals that on February 4, 2008, § 87(2)(b)'s summonses for disorderly conduct, subsection 2 (unreasonable noise), was adjourned contemplating dismissal on § 87(2)(b) (encl. C 11). § 87(2)(b)

Police Officer CCRB History

During his 2 year tenure with the NYPD, PO Konner has no substantiated cases with the CCRB (encl. A 1).

During his 2 year tenure with the NYPD, PO Roda has no substantiated cases with the CCRB (encl. A 2).

Civilian CCRB History

§ 87(2)(b) has no prior cases with the CCRB (encl. A 3).

Civilian Criminal Conviction History

§ 87(2)(b) has no history of criminal convictions in New York State.

Conclusions and Recommendations

Identification of Subject Officer

§ 87(2)(b) identified PO Konner by reading the name and tax number off of the summons that he received. § 87(2)(b) indicated that he witnessed the driver of the patrol car write his summons. PO Konner confirmed that he was the operator of the patrol car and admitted to his involvement in the incident. The 47th Precinct Tour 3 Roll Call on October 15, 2007 indicated that PO Konner was working with PO Roda. PO Roda confirmed that he was the recorder of the vehicle and his involvement in the incident. As a result, the allegations are pleaded against PO Konner and PO Roda.

Undisputed Fact

It is undisputed that § 87(2)(b) had music playing from his § 87(2)(b) and was standing outside with a container of alcohol. It is undisputed that § 87(2)(b) approached the patrol car and asked for PO Konner's and PO Roda's name and shield numbers.

§ 87(2)(b), § 87(2)(g)

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[REDACTED]

Allegations Not Pleaded

An “Abuse of Authority – Stop” allegation is not pleaded because § 87(2)(b) confirmed that he was holding a container of alcohol and was playing music from his § 87(2)(b) when he was stopped by the police. An “Abuse of Authority – Retaliatory Summons” allegation is not pleaded because § 87(2)(b) admitted to resisting the attempts of the police officers to place him in handcuffs and take him to the precinct stationhouse. Based on the statements of PO Konner and PO Roda, § 87(2)(b) was being loud on the streets and was arguing with people as they passed the § 87(2)(b). They also testified that § 87(2)(b) was refusing to put his hands behind his back and was screaming. PO Konner explained that § 87(2)(b)'s actions did not rise to the level of being charged with resisting arrest, but did warrant an issuance of a disorderly conduct summons.

Allegation A: PO Robert Konner refused to provide his name and shield number to § 87(2)(b)

Allegation B: PO Robert Roda refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that he asked PO Konner and PO Roda for their names and shield number and they refused to provide the information that he requested. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Inv. Eric Black

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: